

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

CITIBANK, NA AS TRUSTEE

VS

1:18-CV-427

KATHERINE CAITO ET AL

OBJECTION TO MOTION TO EXTEND TIME

Defendant, by her attorney, objects to the Motion to Extend Time for the following reasons. The Plaintiff filed a complaint for a Judicial Foreclosure in this case based on a promissory note which was replaced by a Corrective Promissory Note. The consumer signed the original mortgage note, which was filed with this case. However, this Note contained incorrect terms by stating that the margin for the adjustable rate mortgage was 3.5% instead of 3.125% and because it incorrectly stated in Paragraph (1) that the Required Full Monthly Payment would occur in zero months. On September 15, 2006, the originating loan servicer, American Home Mortgage recognized this error and mailed the consumer a corrective Note, a corrective Mortgage Rider and a mortgage Modification along with a revised Truth in Lending Disclosure Statement and two copies of the Notice of Right to Rescind the mortgage. This Corrective Note was mailed back to American Home Mortgage and became part of the servicing file for this mortgage loan. The original note was replaced by this duplicative note and became a nullity.

due to the execution of the Corrective Note. Copies of these documents have been provided to the Plaintiff's loan servicer as part of Notices of Error and Requests for Information and are attached to this Objection. The Truth In Lending Statements will be provided in a subsequent filing in order to avoid disclosure of potentially confidential information.

The Defendant did not have these documents when the case was being litigated in this Court prior to appeal. She obtained these documents later when her closing attorney, John DiBona closed his law practice and his son mailed her these documents, which were not available to her during this case.

Defendant believes that PHH mortgage possessed these documents when it hired Plaintiff's attorney to commence this action. She has requested the servicing file, which includes the Corrective Note in a Request for Information. If this Corrective Note has not been indorsed, then the Plaintiff cannot proceed any further in this action as it would not be entitled to any proceeds from a foreclosure sale without entitlement to note proceeds.

The Plaintiff is filing this Motion due to the fact that it apparently recognizes the problems that this will cause to it by providing the servicing file with the Corrective Note pursuant to the Real Estate Settlement and Procedures Act.

The Defendant requests a hearing on this matter in order to present this evidence and also requests additional time in order to file a memorandum of law in regard to this matter.

July 28, 2023

KATHERINE CAITO

By her Attorney,

/S/ John B. Ennis

JOHN B. ENNIS, ESQ. # 2135

1200 Reservoir Avenue

Cranston RI 02920

401-943-9230

[Jbelaw75@gmail.com](mailto:Jbelaw75@gmail.com)

#### CERTIFICATE OF SERVICE

I hereby certify that a copy of this Objection was served electronically on all attorneys of record.

/s/ John B. Ennis